Remarks

Applicants hereby elect group II, claims 24-30 and claim 41; without prejudice to file divisionals on the non-elected groups.

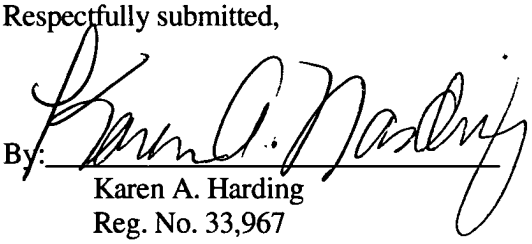
Applicant has amended claim 1 to specify that the binding polymer has a molecular weight of about 7,000 to about 100,000. Support for this amendment may be found at page 5, line 25. Support for new claim 42 may be found at page 5, lines 1-10.

Examiner has rejected claims 24-36 and 41 as anticipated by or obvious in view of Thrakrar (US 6,337,040). Thrakrar neither discloses nor suggests binding polymers comprising 2-hydroxyethyl methacrylate and any specific molecular weight. Clearly, the claims as amended are novel in view of Thrakrar.

The claims as amended are also patentable in view of Thrakrar. Attached herewith is a Declaration of Douglas Vanderlaan showing that polyHEMA having a molecular weight greater than the range recited in the present claims is not soluble in the solvents disclosed and used in the Examples in Thrakrar. Thrakrar is silent as to the molecular weight of the binding polymer. Clearly, the claims are patentable in view of Thrakrar.

Withdrawal of the rejections and allowance of the claims as amended is respectfully requested.

Respectfully submitted,

By: 

Karen A. Harding
Reg. No. 33,967

Johnson & Johnson
P.O. Box 1222
New Brunswick, NJ 08933
(904) 443-3074
Dated: July 16, 2004

Docket No. VTN-571

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	: Frank Molock, et al.
Serial No.	: 10/027,579
Filed	: December 20, 2001
Title:	COLORANTS FOR USE IN TINTED CONTACT LENSES AND METHODS FOR THEIR PRODUCTION
Art Unit	: 1732
Examiner	: Mathieu Vargot

Honorable Commissioner of Patents
Alexandria, VA 22313

DECLARATION UNDER 37 CFR 1.132

I, Douglas Vanderlaan, PhD, declare as follows:

1.1 I am currently a Senior Scientist for Johnson & Johnson Vision Care, Inc. I received a Bachelor of Science in Chemistry from Calvin College, in 1979, and a Doctorate in Organic Chemistry from the Florida State University in 1984. I was a Research Fellow in the field of Organic Chemistry at the University of Michigan from 1984-1985. I was a Research Chemist at SWS Silicones from 1985-1986 and Senior Chemist at Reichhold Chemicals from 1986-1989. I have been a scientist for Johnson & Johnson Vision Care, Inc since 1989. In my tenure with Johnson & Johnson Vision Care, Inc. I have been engaged in research and study of materials for contact lenses

1.2 I reviewed the Examples of US 6,337,040 ("US `040") and tried to dissolve poly(2-hydroxyethylmethacrylate) (polyHEMA) in the solvents used in the Examples of US `040. No molecular weight was specified in US `040 for the binding polymers. The only molecular weight listed for polyHEMA in the 2000-2001 Aldrich Catalog was 300,000. A copy of page 1375 from the 2000-2001 Aldrich Catalog showing the polyHEMA entry is attached hereto.

1.3 I combined 2.0 g of poly(2-hydroxyethylmethacrylate) (300,000 M_V, from Aldrich Chemicals) with 8.0 g 1-butanol and mixed for 3 hours at room temperature. The polymer showed no signs of dissolving and did not appear to be swelling.

1.4 I combined 3.0 g of poly(2-hydroxyethylmethacrylate) (300,000 M_V, from Aldrich Chemicals) with 3.5 g 1-methoxy-2-propylacetate and 3.5 g cyclohexanone and mixed for 3 hours at room temperature. The polymer showed no signs of dissolving and did not appear to be swelling.

1.5 I combined 3.5 g of poly(2-hydroxyethylmethacrylate) (300,000 M_V, from Aldrich Chemicals) with 3.25 g cyclohexanone and 3.25 g methyl ethyl ketone and mixed for 3 hours at room temperature. The polymer showed no signs of dissolving and did not appear to be swelling.

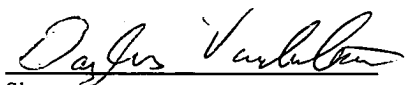
1.6 I combined 1.5 g of poly(2-hydroxyethylmethacrylate) (300,000 M_V, from Aldrich Chemicals) with 8.5 g butoxy ethyl acetate and mixed for 3 hours at room temperature. The polymer showed no signs of dissolving and did not appear to be swelling.

1.7 None of the solvents used in the Examples of US `040 dissolved poly(HEMA) having a 300,000. Clearly US `040 did not appreciate the importance of molecular weight for binding polymers comprising poly(HEMA).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereof.

Inventor's Full Name

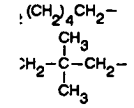
Douglas Vanderlaan, PhD



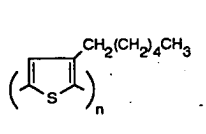
Signature

July 16, 2004

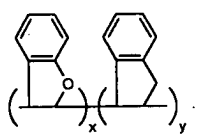
			$
	(ide) alcohol, ...	5mL	15.90
	$)_zOH$ bp 119° n^{20} 1.3160	25mL	43.00
	(ide) alcohol, ...	5mL	15.90
	$H_2(OCH_2CH_2)_zOPO_3H_2$	25mL	43.00
	(ide) monoalkylamide	5g	15.90
	8° d 1.700	25g	43.00
	(ide)	5mL	15.90
		25mL	43.00
	(ide) monocarboxylic	5mL	15.90
	3000 d 1.770 Fp none	25mL	43.00
	$_2C(CH_2)_4CO-]_n$	250g	19.30
		1kg	53.70
	) 4,200. Tm 55-65°		
	.....	100mL	17.00
	2° d 1.090	250mL	34.00
	00 cps		
	.....	100g	17.00
	7° d 1.090	250g	34.00
	0-8,000 cps		
	d 1.140	100mL	17.70
	IRYMATOR	250mL	32.10
	.....	100mL	17.70
		250mL	32.10
	.....	100mL	17.70
		250mL	32.10
	lon 6/12 page 1240		
	) 6/9 page 1240		
	1-8]	250mL	20.30
	^{20} 1.5340 d 1.100		
	10 page 1240		
	forms	100g	17.00
		250g	34.00
	190°C/2.16kg, DIN		
	ıtio 20:80. Tg -65°, Tm		
	14-14-6] mp 33°	250g	21.30
		1kg	58.80
	lity 2.0. Tm (DSC,		
	a/t-adipic acid] diol ...	250mL	20.50
	(110°C)	1L	56.50
	onality 2.1		
	$_2)_5CH_3]-)_n$ n^{20} 1.4810 ..	25g	101.90
	MABLE LIQUID TOXIC		
	Average M_w *ca.*		



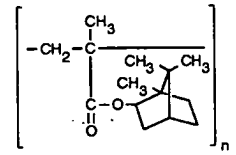
			$
44,570-3	**Poly(3-hexylthiophene-2,5-diyl), regioregular** [*104934-50-1*] mp 238°	1g	229.35
	For the characterization and solid-state properties of this polymer, see *J. Am. Chem. Soc.* **1994,** *117,* 233.		
	Solid. Greater than 98.5% head-to-tail regiospecific conformation. Average M_w *ca.* 87,000		
	Product of Rieke® Metals, Inc.		
51,082-3	**Poly(3-hexylthiophene-2,5-diyl), regiorandom** [*104934-50-1*]	1g	229.35
NEW	For solid state properties see *J. Am. Chem. Soc.* **1994,** *117,* 233		
	Red solid. Conducting polymer. 1:1 (head-to-head):(head-to-tail) linkages of regioisomers		
	Product of Rieke® Metals, Inc.		
49,709-6	**Poly(4-hydroxybenzoic acid-*co*-ethylene terephthalate)** [*125300-07-4*]	100g	20.00
NEW	$(-OC_6H_4CO-)_x(-OCH_2CH_2O_2CC_6H_4\text{-}4\text{-}CO-)_y$		
	Liquid crystalline copolyester		
43,234-2	**Poly(4-hydroxybenzoic acid-*co*-6-hydroxy-2-naphthoic acid)** [*70679-92-4*]	100g	21.10
	$(-OC_6H_4CO-)_x(-OC_{10}H_6CO-)_y$ mp 280° d 1.500	500g	70.20
	Liquid crystal random thermoplastic copolymer. Average M_w >20,000. Reinforced with *ca.* 15% glass fiber		
36,350-2	**Poly(3-hydroxybutyric acid),** natural origin [*26063-00-3*] $[-COCH_2CH(CH_3)O-]_n$	10g	41.10
	R&S 1(2),3163D	100g	265.40
	T_m 172°C (DSC). Biodegradable polymer		
40,310-5	**Poly(3-hydroxybutyric acid-*co*-3-hydroxyvaleric acid),** natural origin	10g	32.40
	[*80181-31-3*] $[-COCH_2CH(CH_3)O-]_x[-COCH_2CH(C_2H_5)O-]_y$ $[\alpha]^{20}$ +4.5° (c=0.1, $CHCl_3$)	100g	207.80
	R&S 1(2),3163E		
	PHV content 5 wt. %		
	Produced via a controlled fermentation process using microorganisms. Biodegradable polymer		
40,311-3	**Poly(3-hydroxybutyric acid-*co*-3-hydroxyvaleric acid),** natural origin	10g	32.40
	[*80181-31-3*] $[-COCH_2CH(CH_3)O-]_x[-COCH_2CH(C_2H_5)O-]_y$	100g	207.80
	PHV content 8 wt. %		
	Produced via a controlled fermentation process using microorganisms. Biodegradable polymer		
40,312-1	**Poly(3-hydroxybutyric acid-*co*-3-hydroxyvaleric acid),** natural origin	10g	32.40
	[*80181-31-3*] $[-COCH_2CH(CH_3)O-]_x[-COCH_2CH(C_2H_5)O-]_y$	100g	207.80
	PHV content 12 wt. %		
	Produced via a controlled fermentation process using microorganisms. Biodegradable polymer		
19,206-6	**Poly(2-hydroxyethyl methacrylate)** [*25249-16-5*] $[-CH_2C(CH_3)(CO_2CH_2CH_2OH)-]_n$	1g	13.20
	d 1.150 *FT-IR* 1(2),1194C *R&S* 1(2),3167F	10g	57.00
	Crystals. Average M_v *ca.* 300,000	25g	113.80
18,213-3	**Poly(2-hydroxypropyl methacrylate)** [*25703-79-1*]	10g	66.40
★	$(-CH_2C(CH_3)[CO_2CH_2CH(OH)CH_3]-)_n$ *FT-IR* 1(2),1190C *Safety* 2,2877A	25g	134.20
	R&S 1(2),3165K		
	Crystals		
	Poly(4-hydroxystyrene), see Poly(4-vinylphenol)		
44,668-8	**Poly(indene-*co*-coumarone)** [*35343-70-5*] d 1.140 Fp >230°F(110°C)	1kg	18.50
★	Flake. Average M_n *ca.* 735. 10 wt. % coumarone	3kg	41.40
44,669-6	**Poly(indene-*co*-coumarone)** [*35343-70-5*]	1kg	18.50
★	Flake. Average M_n *ca.* 1,090. 10 wt. % coumarone	3kg	41.40
19,195-7	**Poly(isobornyl methacrylate)** [*64114-51-8*] *FT-IR* 1(2),1194B *R&S* 1(2),3167E	10g	42.60
★	Beads. Average M_w *ca.* 554,000 (GPC). Tg 110°. Solubility parameter 8.1		
18,145-5	**Polyisobutylene** [*9003-27-4*] $[-CH_2C(CH_3)_2-]_n$ n^{20} 1.5045 d 0.920 *FT-IR* 1(2),1162B	100g	46.30
★	*Safety* 2,2878B *R&S* 1(2),3151N *RTECS#* UD1010000	250g	80.70
	Slab/chunk. Stabilized with 500 ppm 2,6-di-*tert*-butyl-4-methylphenol. Average M_v *ca.* 420,000, M_w *ca.* 500,000, M_n *ca.* 200,000 (GPC/MALLS). Tg -76°. Tm 1.5°. Solubility parameter 7.7		
18,146-3	**Polyisobutylene** [*9003-27-4*] $[-CH_2C(CH_3)_2-]_n$	100g	41.40
★	Slab/chunk. Stabilized with 500 ppm 2,6-di-*tert*-butyl-4-methylphenol. Average M_v *ca.* 1,200,000, M_w *ca.* 1,000,000, M_n *ca.* 600,000 (GPC/MALLS)	250g	74.80



44,570-3



44,668-8



19,195-7